SHEARMAN & STERLING

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UK PRIIPs Review Brings Welcome Clarification

The EU and U.K. PRIIPs Regulations have had a significant effect on practices in the wholesale capital markets. Uncertainty about whether some financial instruments qualify as a PRIIP has resulted in cautious interpretations and the exclusion of retail investors from debt offerings. To address these challenges, the U.K. government granted the Financial Conduct Authority new powers to make rules on the scope of products subject to the U.K. PRIIPs Regulation. The FCA has now made rules to clarify when certain features of corporate bonds make a product a PRIIP and provided new guidance on what it means for a financial instrument to be “made available” to retail investors. This memorandum summarizes the key changes that firms need to comply with by 2023 when offering or otherwise making available financial products to U.K. retail investors or in the U.K. markets.

The EU Regulation governing packaged retail and insurance-based investment products (or “PRIIPs”)[1], while well-intentioned, proved to be perhaps one of the most ill-thought out and problematic of the EU’s recent financial services initiatives. The PRIIPs Regulation was intended to mandate standardized disclosures to retail investors for “packaged products,” such as FTSE index trackers and insurance-wrapped products. However, as a result of broad and imprecise legislative drafting, a lack of appropriate exemptions and equivocal official sector guidance, the PRIIPs Regulation has been widely treated as applicable to a raft of “plain vanilla” financial instruments, such as bonds, warrants, convertible instruments and exchange-traded derivatives. Among other consequences of the PRIIPs Regulation has been the exclusion of retail investors from large swathes of the capital markets. In a stroke, the PRIIPs Regulation undermined the EU’s “capital markets union” policies, which are meant to encourage broader individual participation in corporate investments. The PRIIPs Regulation was “on-shored” into U.K. law [2] following Brexit, with mostly small amendments, but notably removing sovereign debt from scope. The U.K. has now concluded a key review to further clarify and, critically, restrict the most adverse consequences of this regime.

The U.K. Financial Services Act 2021[3] amended the U.K. PRIIPs Regulation[4] to give the U.K. Financial Conduct Authority a new power (not afforded to EU regulators under the EU regime) to make rules specifying whether a product or product category falls within the definition of a PRIIP. In the first use of that new power, on March 25, 2022, the FCA concluded and published its policy approach and rules[5] to amend the scope of the rules governing PRIIPs. The changes are designed to bring legal certainty to the scope of the U.K. PRIIPs regime, as it applies to corporate bonds. The amendments also address issues of misleading performance scenarios and summary risk indicators, and concerns about the transaction costs calculation methodology. It is hoped that the amendments will promote liquidity, improve choice in the U.K. retail corporate bond market and reduce the complexity of key information documents (or “KIDs”), the information disclosure documents that must accompany PRIIPs when they are made available to retail investors.

Background

The U.K. PRIIPs regime is based on the EU PRIIPs Regulation and the EU PRIIPs Regulatory Technical Standards,[6] which the U.K. on-shored with primarily minor amendments following its exit from the EU pursuant to the European Union (Withdrawal) Act 2018. The main U.K. legislation is now the on-shored version U.K. PRIIPs Regulation and the Technical Standards (“U.K. PRIIPs TS”).[7] The U.K. Financial Services Act 2021[8] made some amendments to the U.K. PRIIPs Regulation, the combination of which have or will lead to differences between the EU and the U.K. PRIIPs regimes. In addition to the FCA’s new scoping power, performance scenario requirements were replaced with a more flexible requirement for “information on performance” to address industry concerns that, in certain circumstances, performance scenarios could be misleading.

Nature of the Changes

These latest changes cover new rules on the scope of the products within the scope of the PRIIPs regime, new guidance on what it means for a financial instrument to be “made available” to retail investors and amendments to certain aspects of the U.K. PRIIPs TS. The changes are made in the context of the FCA’s overarching aim to ensure that consumers can access appropriate investment products and make effective decisions and that retail investors have understandable information available that enables them to make informed decisions, which is aligned with the FCA’s proposed introduction of a new consumer duty. This memorandum summarizes the key changes that firms need to comply with by 2023 when offering or otherwise making available financial products to U.K. investors or in the U.K. markets.

Summary of the UK PRIIPs Requirements

The U.K. PRIIPs Regulation applies to manufacturers of PRIIPs that are or will be made available to retail investors in the U.K. and to firms advising on or selling PRIIPs. These entities are within scope regardless of whether their business involves the provision of regulated financial services activities. The U.K. PRIIPs Regulation sets out rules on the format and content of the KID to be drawn up by PRIIP manufacturers before PRIIPs are made available to U.K. retail investors. The KID is intended to provide retail investors with information that will enable them to understand and compare the key features and risks of a PRIIP.[9]

The Regulation applies to “packaged retail investment products” and “insurance-based investment products.”[10] A packaged retail investment product is defined as an investment where, regardless of its legal form, the amount repayable to a retail investor is subject to fluctuations (such as, for example, investment funds, structured products and derivatives like options, future and CFDs), either because of exposure to reference values or because of the performance of one or more assets which are not directly purchased by the retail investor.[11] The U.K. PRIIPs Regulation also applies to "insurance-based investment products." However, these are not discussed in this client note.

The U.K. PRIIPs Regulation and U.K. PRIIPs TS impose detailed obligations on various parties who have a role in product design or distribution. First, they regulate PRIIP manufacturers, which are essentially any entity manufacturing a PRIIP or making changes to an existing PRIIP, i.e., issuers and potentially underwriters. Distributors who are persons offering or concluding a PRIIP contract with a retail investor are also regulated. Key obligations imposed are:

- Publication of a KID. PRIIP manufacturers must produce and publish a KID on their website before the PRIIP can be made available to retail investors in the U.K.[12] KIDs are three-page product summaries following a prescribed template containing, inter alia, a description of the nature and main features of the PRIIP, a summary risk indicator, potential maximum loss and information on performance.[13]
- Provision of the KID in good time. PRIIP sellers must provide KIDs to the retail investor in "good time" before the retail investor is bound by any contract relating to that PRIIP.[14]

The U.K. PRIIPs Regulation imposes civil liability on PRIIP manufacturers where a retail investor suffers losses as a result of reliance on a misleading, inaccurate or inconsistent KID.[15]

New Rules on Scope

The EU and U.K. PRIIPs Regulations have had a significant effect on practices in the wholesale capital markets. Uncertainty about whether some financial instruments qualify as a PRIIP has resulted in issuers and investment banks being cautious in their interpretation of the PRIIPs regime and typically excluding retail investors from debt offerings entirely to ensure the offering is out of scope of the obligation to produce a KID. Although intended as a measure to regulate and promote disclosures on packaged retail products, such as FTSE trackers and insurance-wrapped investments, the very broad and generic definition of a PRIIP has been considered by many market participants to include most corporate bonds and derivatives. In particular, on one view, corporate bonds with common features such as "make-whole" provisions or change of control put options can lead to "fluctuating returns" for investors for purposes of the PRIIPs Regulation, placing them in scope of the PRIIPs Regulations. We previously discussed these issues in our client note, "PRIIPs and Capital Markets Transactions: A Better Way Forward?"

To address these challenges and avoid further consumer harm and obstruction of retail access to relevant bond products, the U.K. government granted the FCA new powers to make rules on the scope of the products subject to the U.K. PRIIPs Regulation. This approach allows the FCA to provide much needed legal certainty, which the EU has not been able or willing to provide.[16]

The FCA has now made rules to clarify when certain features of corporate bonds make a product a PRIIP. While some might have hoped that the FCA would exclude bonds entirely, the FCA's approach ensures that products cannot simply be structured as a bond as an avoidance from the disclosure requirements. The new FCA rules set out debt securities that are PRIIPs, those that are not PRIIPs and features of debt securities that are neutral. Many of the FCA's changes reflect our analysis as set out in our aforementioned client note. The FCA's rules, which are set out in a new Product Disclosure sourcebook (DISC), operate as follows:

- Debt securities are classed as a PRIIP where the level of interest payable, any conditionality of principal repayment or the issuer's default risk is linked to:
  - fluctuations in reference indices or benchmarks relating to investment assets, excluding the Bank of England official Bank Rate and benchmarks or indices that relate to the performance of the general economy (e.g., those tracking the rate of inflation or money market interest rates); or
  - the value or performance of reference assets, including a basket of shares; or
  - the value or performance of investments held by the issuer (or an entity connected to the issuer, including members of the same group), such as derivatives, real estate, a pool of receivables or a portfolio of securities.
- Debt securities are not a PRIIP where the:
  - return on the security is determined by the economic performance of the issuer's (or, where a bond is guaranteed by a group entity, that entity's) commercial or industrial activities. Lending, investment, and any other financial sector activities would not be considered commercial or industrial activities of an issuer; and
  - terms of the debt security do not impose any modification, structuring or conditionality on the issuer's obligation to pay interest or repay the principal, except for the effect of certain neutral features discussed immediately below.
- The following "neutral" features do not cause a debt security to be considered a PRIIP:

- Fixed rate bonds, even if the coupons are subject to pre-defined changes (because the returns to investors for these investments are not subject to fluctuations).
- Floating rate bonds provided the interest payable is: (i) determined by the Bank of England official Bank Rate or indices that relate to the performance of the general economy, with or without a spread indicating the issuer's credit risk; and (ii) not subject to any modification or structuring (for example, a cap or a floor other than zero).
- Subordinated bonds, and bonds with perpetual or indefinite terms.
- A put option where the investor has a discretion to demand early repayment of the debt security on pre-agreed terms, or to convert or exchange into one or more shares of the same issuer at a pre-determined price.
- A call option that permits the issuer to redeem early at least at par, provided that exercise of the option is not linked to fluctuations in reference values or investment asset performance and the mechanism to calculate the net present value of the future coupon payments is made clear to the investor.

The FCA's view is that these types of put or call options that include, but are not limited to, make-whole or change of control clauses do not render a product to be sufficiently complex to count as a PRIIP.

Other Products

There was some disappointment that the FCA did not consider more fundamental changes to the scope of the U.K. PRIIPs regime, beyond corporate bonds. The FCA has acknowledged that its approach is narrower than some in industry had wanted and has stated that it intends to work with HM Treasury in the upcoming wholesale review of the disclosure regime for U.K. retail investors.

In response to requests for clarification on whether specific products fell within the PRIIPs regime, the FCA declined to make rules. However, acknowledging that some ambiguity remains, the FCA provided an indication of its view with regards to some products. In summary, the FCA considers that:

- US ETFs and derivatives, including FX Forwards, FX Swaps and Exchange Traded Derivatives are PRIIPs. In addition, any collective investment undertaking that is an 'alternative investment fund' which is made available to the retail market is considered a PRIIP. This includes listed investment companies, notwithstanding that such entities are body corporates.
- Sovereign bonds are not within scope of the PRIIPs regime (irrespective of their features).

- Certain products need to be assessed on a case-by-case basis, including Regulated Covered Bonds, REITs and Sukuks.

According to the FCA, a SPAC would generally fall outside the PRIIPs Regulation where it is publicly listed and the investor can either swap their shares in the SPAC for shares of the merged company or redeem once the acquisition is completed. However, a manufacturer of a SPAC would need to consider its specific characteristics, including where the entity is unlisted, to determine whether it is a PRIIP. Also, Royalty Companies, where the assets held by retail investors are publicly listed corporate shares, would generally be outside the PRIIPs Regulation according to the FCA, and it is the responsibility of the manufacturer to determine whether this is the case for each one.

Legacy Products

The FCA is also introducing a rule to clarify that a financial instrument issued before January 1, 2018, is not a PRIIP, even if it remains available for trading on a secondary market to retail investors. This is a most welcome clarification of the position on legacy products, creating much greater legal certainty than was achieved in the Guidelines issued by the European Commission in 2017.[17]

We have set out in a table at the end of this note a consolidated summary of the FCA's view of the scope of the PRIIPs regime.

New Guidance on "Made Available"

Under the U.K. PRIIPs Regulation, issuers must produce a KID whenever PRIIPs that they are issuing are "made available" to U.K. retail investors. There is some ambiguity in terms of what constitutes "made available," which has led some firms to produce a KID even where they do not intend to sell the product to retail investors, to avoid inadvertently falling foul of the rules.

To combat this, the FCA has issued new guidance, as consulted on, setting out the conditions in which PRIIPs will not be "made available" to retail investors, namely where:

- it is clear from the marketing materials, including the prospectus if there is one, that the financial instrument is only being offered to "investors eligible for categorization as professional clients or eligible counterparties under the FCA's rules" and is not intended for retail investors;
- the issuer and, for the secondary markets, the distributor take reasonable steps to ensure that the financial instrument is targeted at only investors eligible for categorization as professional clients and eligible counterparties; and
- the financial instrument has a denomination or minimum investment of £100,000 or more.

Changes to the UK PRIIPs TS

The FCA has also made numerous changes and improvements to the existing U.K. PRIIPs TS, ranging from information on performance and risk to transaction cost disclosure requirements. These amendments are discussed in the body of the policy paper and a mark-up of the U.K. PRIIPs TS text is contained in an annex to that paper.

Information on Performance and Risk

The U.K. PRIIPs Regulation requires certain information to be disclosed in the KID, including in relation to aggregate costs and charges, investment risk and information on performance. The U.K. PRIIPs TS set out the detailed information that must be included and the methodologies for calculating and presenting the information. In some cases, the U.K. PRIIPs TS requirements have been found to be overly prescriptive, leading to misleading information being included in KIDs. The FCA has made amendments to the requirements to tackle this issue.

Performance Scenarios Replaced with Information on Performance

The Financial Services Act 2021 removed from the U.K. PRIIPs Regulation the reference to "performance scenarios," instead requiring a KID to contain "information on performance." However, the U.K. PRIIPs TS still contain the methodologies for calculating prospective performance scenarios, requiring firms to use historical data to make their calculations, which has caused some issuers to publish misleading scenarios. Issuers and manufacturers have been concerned about this issue given the potential liability that can arise if future performance is not as specified. In January 2018, the FCA issued an initial response[18] to concerns raised on this matter, permitting firms to accompany their scenarios with explanatory materials to provide further context.

As consulted on, the FCA is removing the requirement for performance scenarios to be included in KIDs. Performance scenarios would be replaced by a new set of information requirements (in new Annex 4A to the U.K. PRIIPs TS), including:

- the main factors upon which a PRIIP's return depends, information about the underlying assets or reference values and how the return is calculated;
- the relationship between the PRIIP's return and the underlying investment asset or reference value;
- the factors likely to affect future performance;
- the most relevant index, benchmark, target or proxy, together with how comparable PRIIP is to that reference point in terms of volatility and performance; and
- an explanation of favorable, negative and worst-case scenarios for the product's performance.

Parallel developments are being seen in the U.K. in relation to listing and prospectus disclosures, with civil liability for prospective performance information also being reduced, as discussed in our separate client note, "UK Prospectus Reform Inches Forward."

Misleading Summary Risk Indicators

The U.K. PRIIPS Regulation demands that issuers include information on the risks associated with the product. The U.K. PRIIPs TS prescribe how those risks should be laid out, including a Summary Risk Indicator score between one and seven, together with a narrative description of the product's main risks. To combat concerns that the U.K. PRIIPs TS methodology for producing SRIs has led to lower-than-expected risk ratings, the FCA has made the following amendments:

- A new requirement that PRIIPs manufacturers upgrade a product's SRI if they consider the risk rating is too low and notify the FCA of any such upgrade.
- PRIIPs issued by Venture Capital Trusts should not adhere to the U.K. PRIIPs TS methodology and should instead be assigned an SRI score no lower than six. This is to take account of the high-risk nature of VCT products, which nevertheless tend to produce low SRI scores under the current methodology on account of their having fewer observable pricing data points.

The FCA has also extended the current 200-character limit on the narrative description of other significant risks to 400 characters.

Transaction Costs Disclosure Requirements

The U.K. PRIIPs TS include a methodology for calculating and presenting the cost of PRIIPs, including the direct and indirect costs to be borne by retail investors. The FCA considers that the accuracy of this cost reporting could be improved, and so proposes to make changes or issue clarifications to the rules regarding anti-dilution, the calculation of costs for debt securities and index-tracking funds and the three-year transaction cost calculation period.

The FCA is not changing the "slippage," a calculation methodology for transaction costs which accounts for the difference between the execution price of a trade and the "arrival price" when the trade order is submitted to the market. The FCA considers that it has already addressed concerns about slippage in its "PRIIPs Call for Input Feedback Statement,"[19] and believes that the slippage methodology is working as intended.

Anti-Dilution

"Anti-dilution" is the mechanism by which an open-ended fund passes on to incoming or outgoing investors the transaction costs it incurs when it buys or sells investments in response to those flows into or out of the fund, to prevent these transaction costs from being solely borne by ongoing investors. Under the PRIIPs rules, firms are permitted to deduct any benefit arising from anti-dilution from their total transaction costs. However, in some instances this has led to negative transaction costs. The FCA has amended the U.K. PRIIPs TS so that firms must disclose anti-dilution benefits as part of their narrative description of transaction costs in the KID but must not consider anti-dilution benefits if, and to the extent that, they would take the total transaction costs to below zero.

Calculation of Transaction Costs for Debt Securities

Limited price availability, particularly in the case of OTC transactions in bonds, can impact the accuracy of transaction cost reporting. As consulted on, the FCA clarifies how transaction costs for OTC bond transactions are calculated by requiring firms to check the fairness of the price before conducting the transaction. Firms should rely on the average of the best bid and best offer obtained from multiple counterparties to calculate the market mid-price of the bond.

Understanding the Average Price

Transaction costs must be calculated based on the average costs over three years. The U.K. PRIIPs TS is amended so that the calculation is made by calculating all transaction costs over the entire three-year period and take the average for the whole period, as opposed to calculating the average on a year-by-year basis. The FCA will re-visit this issue during the wholesale review of retail disclosures.

Funds

The Financial Services Act 2021 extended the UCITS exemption in the PRIIPs Regulation from December 31, 2021 to December 31, 2026. The FCA has confirmed that the exemption means its latest changes will not apply to management companies, investment companies and persons advising on, or selling, units in UCITS. As before, when marketing to U.K. retail investors, UCITS funds will not be required to provide a PRIIPs KID but must provide a UCITS key investor information document (KIID), which has different but broadly similar content requirements as the PRIIPs KID. The requirement to provide a UCITS KIID will continue to apply whether the UCITS fund in question is a U.K. UCITS fund or an EEA UCITS fund that was previously recognized and that is now registered for marketing under the Temporary Marketing Permissions Regime.

HM Treasury has stated[20] that changes to the U.K. PRIIPs Regulation may be made following its wholesale review of the U.K. retail disclosure regimes, and that any changes would provide for a transition period.

The non-UCITS retail schemes (NURS) exemption in the PRIIPs Regulation has also been extended such that, until December 31, 2026, NURS marketed to U.K. retail investors will continue to have the option of using an NURS KIID instead of a PRIIPs KID. Where these funds choose to use an NURS KIID, the FCA's latest amendments will not apply.

Overseas funds may be marketed to U.K. retail investors if they are recognized by the FCA under the Financial Services and Markets Act 2000. The FCA confirms that recognized overseas funds (other than EEA UCITS) are currently treated as PRIIPs, and so these latest FCA amendments apply to them.

Timing

The FCA had proposed publishing the final changes last year and for those to take effect from the start of 2022. However, feedback from the industry indicated that more time was needed to implement the changes. The changes took effect on March 25, 2022. However, the FCA has established a transitional period ending on December 31, 2022, allowing firms the choice of whether to comply with the new rules before that date. The transitional period does not apply to the extension to the exemptions for funds (discussed in the section above), which has applied since March 25, 2022.

UK PRIIPs Consolidated Scope Table

The FCA's view on the scope of the U.K. PRIIPs Regulation for certain products is summarized in the table below. The Key indicates the relevant source.

Key

(R or G) – set out in the new Product Disclosure sourcebook

(W) – set out on the FCA's website

(PS) – indicated in the latest Policy Statement (PS22/2)

(FS) – set out in the FCA's Feedback Statement (FS19/01)

UK PRIIPS CONSOLIDATED SCOPE TABLE

IN SCOPE PRODUCTS	OUT OF SCOPE PRODUCTS	GENERALLY, OUT OF SCOPE PRODUCTS, BUT MANUFACTURER TO DECIDE ON A CASE-BY-CASE BASIS	MANUFACTURER TO DECIDE ON SCOPE OF PRIIPS ON A CASE-BY-CASE BASIS
Derivatives, including options, futures, CfDs, FX Forwards, FX Swaps and Exchange Traded Derivatives (PS and W)	Financial instruments issued before 1 January 2018 (R)	SPACs that are publicly listed and the investor can either swap their shares in the SPAC for shares of the merged company or redeem on completion of the acquisition (PS)	REIT (FS and PS)
Variable rate bonds (R)	Floating rate vanilla bonds linked to central bank rates, even with a make-whole clause or vanilla put/call (R)	Investments that are publicly listed corporate shares of royalty companies (PS)	Regulated Covered Bonds (PS)
Structured deposits as defined in MiFID II (W)	Fixed rate vanilla bonds, even with a make-whole clause or vanilla put/call (R)		Sukuk (PS)
Structured investment products (W)	Debentures and other debt securities where the amount repayable to the retail investor is fixed (W)		
Securities issued by certain SPVs or SPEs with variable returns (W)	Assets held directly by a retail investor, such as corporate shares or sovereign bonds (W)		

US ETF (and any other third-country manufacturer or distributor of a PRIIP to retail clients in the U.K. (PS)	Deposits (W)		
Fluctuating return annuities (that are not pension products) where fluctuating amounts are paid to the annuitant because of exposure to reference values (such as indices) or to the performance of one or more assets which are not directly purchased by the annuitant (e.g., purchased life annuities with variable returns) (W)	Fixed annuities (that are not pension products) where the amount payable to the annuitant does not fluctuate (W)		
Insurance based investment products, such as unit-linked policies, with-profits policies and Holloway sickness policies (W)	Non-life insurance/general insurance, and life insurance that have no surrender value, or a surrender value that does not depend on fluctuations in the performance of one or more underlying assets or reference values (W)		
Regulated collective investment schemes (CIS) including non-UCITS retail schemes, qualified investor schemes and individually recognised overseas schemes (W)	Certain securities subject to certain conditions, issued by EU Member States, their regional or local authorities, central banks, public international bodies, non-profit making bodies or credit institutions (W)		
Unregulated CIS that are AIFs (including some unauthorised unit trust schemes and private equity schemes), and that are not AIFs (W)	Investment trust savings schemes that are dealing services dedicated to the securities of one or more investment trusts (W)		
AIFs that are not CIS, including shares or units in: (i) an investment company (even if a body corporate) or investment trust; (ii) venture capital investments; (iii) European Social Entrepreneurship Funds (EuSEFs); and (iv) European Venture Capital Funds (EuVECAs) (W)	ISA wrappers (however, investments held in an ISA wrapper may be PRIIPs) (FS and W)		
	Dealing/custody services allowing retail investors to purchase, hold and sell investments as legal or beneficial owner (FS and W)		
	Pension products (W)		
	Securities with a denomination of £100,000 that meet the conditions set out in the FCA's guidance on "made available" (G)		

[1] Regulation (EU) No 1286/2014 of the European Parliament and of the Council of November 26, 2014, on key information documents for packaged retail and insurance-based investment products.

[2] The EU PRIIPs Regulation was on-shored by the Packaged Retail and Insurance-based Investment Products (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/403) A material change made by the U.K. was to extend the sovereign bond exemption to apply to bonds issued by all governments. The EU PRIIPs Regulation only exempts sovereign bonds issued by EEA states.

[3] Section 38, Financial Services Act 2021, inserting Article 4A and amending Article 8, U.K. PRIIPs Regulation. Section 38 came into effect on July 1, 2021, under the Financial Services Act 2021 (Commencement No. 2) Regulations 2021 (S.I. 2021/739).

[4] Regulation (EU) No 1286/2014 as it forms part of U.K. domestic law by virtue of the European Union (Withdrawal) Act 2018.

[5] See FCA policy statement, "PRIIPs – Scope Rules and amendments to Regulatory Technical Standards," PS 22/2, March 2022.

[6] Commission Delegated Regulation (EU) No 2017/653 of March 8, 2017 supplementing Regulation (EU) No 1286/2014 of the European Parliament and of the Council on key information documents for packaged retail and insurance-based investment products (PRIIPs) by laying down regulatory technical standards with regard to the presentation, content, review and revision of key information documents and the conditions for fulfilling the requirement to provide such documents

[7] Commission Delegated Regulation (EU) No 2017/653 (on presentation, content, review and revision of key information documents) as it forms part of U.K. domestic law by virtue of the European Union (Withdrawal) Act 2018.

[8] You may wish to read our client note, The Future of Financial Regulation in the UK ("The Future of Financial Regulation in the UK | Shearman & Sterling"), which discusses the other amendments made by the Financial Services Act 2021.

[9] Article 1, U.K. PRIIPs Regulation.

[10] Article 4(3), U.K. PRIIPs Regulation.

[11] Article 4(1), U.K. PRIIPs Regulation.

[12] Article 5, U.K. PRIIPs Regulation.

[13] Articles 6-8, U.K. PRIIPs Regulation.

[14] Article 13, U.K. PRIIPs Regulation.

[15] Article 11, U.K. PRIIPs Regulation.

[16] The European Supervisory Authorities published a Supervisory Statement on the scope of application to bonds in October 2019 to provide some clarity, however, it does not have the force of law. See our blog, "European Supervisory Authorities Issue Guidance on Scope of Application to Bonds of the PRIIPs Regulation." The European Commission has also recently requested technical advice from the ESAs on a range of matters related to the EU PRIIPs regime, including whether certain of the exemptions should be maintained and whether the scope should be extended to more products (see Call for advice to the Joint Committee of the European Supervisory Authorities regarding the PRIIPs Regulation, dated 27 July 2021).

[17] See our client note, "PRIIPs and Capital Markets Transactions: A Better Way Forward?" for details of the Commission's guidance and the remaining uncertainty.

[18] FCA Statement on communications in relation to PRIIPs, dated January 24, 2018.

[19] See the FCA FS19/01, PRIIPs Call for Input Feedback Statement, dated February 2019 (PRIIPs Call for Input Feedback Statement).

[20] See HM Treasury's announcement on 1 June 2021 of the extension to the UCITS exemption from the PRIIPs Regulation.

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